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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,057	03/17/2004	Pietro Marcolin	MARCOLIN1	1705
1444 7590 04/11/2008 BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW SUITE 300 WASHINGTON, DC 20001-5303				
EXAMINER				
BRINSON, PATRICK F				
ART UNIT		PAPER NUMBER		
3754				
MAIL DATE		DELIVERY MODE		
04/11/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/802,057

**Applicant(s)**

MARCOLIN, PIETRO

**Examiner**

Patrick F. Brinson

**Art Unit**

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 17-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 7, 8, 10, 11, 13, 14, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 5,573,039 to **Mang** in view of U.S. 4,145,325 to **Vassiliou et al.**

The patent to **Mang** discloses a tube for conveying fluids, comprising a plurality of concentric layers, an inner layer consisting of a conduit (22) for a fluid to be conveyed and at least an outer layer (20) for protection and reinforcement, mounted externally to the inner layer wherein the inner layer is mainly made from a fluorinated polymer, selected from a variety including PFA, col. 4, line 1. Col. 6, lines 20-23 discloses that the reinforcing layer (20) and the inner layer may be adhered together with heat or adhesives, as recited in claims 3 and 4. It is disclosed that the outer layer are composed of a plurality concentric outer layers, as recited in claims 5, 8, 11 and 14. Col. 2, lines 57-60, discloses that the inner layer is provided with an inner layer of semi-conductive carbon (25) which functions as an electrical ground

and prevents degradation of potentially-hazardous electrical sparks within the fuel line, as recited in claims 7, 10, 13 and 16. **Mang** discloses the recited structure with the exception of disclosing that the inner layer is pigmented. The patent to **Vassiliou et al.** discloses a fluorocarbon polymer composition including a PFA, wherein it is further disclosed that any pigment can be used in the composition and though some darker pigments were employed, white pigments are preferred for their appearance. It's further disclosed that the pigmented fluorocarbon compositions may be utilized in pipes, col. 5, line 8. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide to the inner layer of **Mang**, a white pigment, as suggested by **Vassiliou et al.** in order to prevent the inner tube from turning a dark color when the inner and outer layers are adhered together.

2. Claims 6, 9, 12, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Mang** in view of **Vassiliou et al.** as applied to claims 5, 8, 11 and 14 above, and further in view of U.S. 6,390,141 to **Fisher et al.**

The patent to **Mang**, as modified, discloses a plurality of concentric layers including an abrasion resistant braided fiberglass composite, as well as a metallic spiral wire (24) within the reinforcing layer (20), but does not disclose at least one of the layers being a metallic reinforcing spiral. The patent to **Fisher et al.** discloses a pipe high pressure hose including an inner fluoropolymer layer (14) used in a variety of

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fluid transfer applications, including transporting of oil, including a plurality of concentric outer layers, wherein at least one of the outer layers (70) is a spiral reinforcing layer, made of a material selected from materials, including metal. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide to the hose of **Mang**, as modified, a layer of spirally wound metallic braid, as suggested by **Fisher et al.** in order to sufficiently reinforce the hose against internal as well as external pressure.

### ***Response to Amendment***

3. In response to the objections of the drawings, Applicant submitted an annotated drawing sheet in which the numerals (6 and 8) and their lead lines have been darkened. This annotated sheet is appreciated, and the drawing objection is withdrawn, as all that was shown in the previous drawing was a completely solid black

ring with lead lines pointing to the black ring. There was no distinction of layers. (see

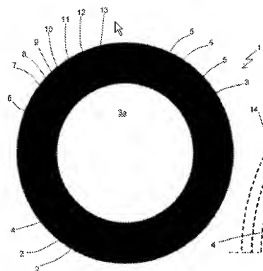


FIG. 1

attached).

Applicant argues against the rejection of claims 1-5, 7, 8, 10, 11, 13, 14 and 16 with **Mang** in view of **Vassiliou et al.** stating that one of ordinary skill in the art would not have been able to provide the claimed structure in a successful way.

Applicant states that **Vassiliou et al.** does not really suggest pigmenting the inner conduit of **Mang** and that it only discloses a composition adapted for coating articles and never suggests any that any kind of tubing can be made using such a pigmented composition. It is the examiner's position that **Vassiliou et al.** discloses that it is old and known to provide pigmentation to fluorinated polymers such as PFA and MFA.

Applicant further states that **Vassiliou et al.** indicates that pigmented fluorocarbon compositions may be utilized in pipes, but that it can used only for top-coating a pipe and not as a composition from which the pipe itself can be formed. It should be

noted that the claim is a product claim and not a method of forming a pipe and the claim is drawn to an inner layer formed from a fluorinated polymer that is pigmented. Applicant goes on to state that, admittedly, it is known to add pigments to layers formed of PFA or MFA, but because the addition of pigments change the molecular behavior of these materials, it is was not known how to apply a further material onto the pigmented substrates with sufficient strength to be usable in the production of multi-layer tubes. Again, the claims are not drawn to a method of forming the tube, but merely recite that the inner fluorinated layer is pigmented. **Mang** discloses the recited structure with the exception of the pigmented inner fluorinated layer. **Vassiliou et al.** discloses, as mentioned by Applicant, that it is old and known to provide fluorinated compositions, such as PFA, with pigmentation. Therefore it would have been obvious to one having ordinary skill the at the time the invention was made to provide pigmentation to the PFA layer of **Mang** in order to provide color to the pipe.

### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is

filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Patrick F. Brinson** whose telephone number is (571) 272-4897. The examiner can normally be reached on M-F 7:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Kevin P. Shaver** can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Patrick F. Brinson/  
Primary Examiner, Art Unit 3754

P. F. Brinson  
April 3, 2008